

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY :
AND MUNICIPAL EMPLOYEES, AFL-CIO :
:
and :
:
THE CITY OF MANCHESTER, NEW HAMPSHIRE, :
BUILDING MAINTENANCE DEPARTMENT :
:

CASE NO. A-0435

DECISION NO. 780016

APPEARANCES

Representing the American Federation of State, County & Municipal Employees:

William J. McDonough, Executive Director, AFSCME

George Broutzos, Employees of the Building Maintenance Department

Representing the City of Manchester, New Hampshire:

Wilbur L. Jenkins, Personnel Director

Richard L. Houle, Superintendent

Mr. Charles Flower

BACKGROUND

On December 13, 1977, William J. McDonough, Executive Director, N.H. Public Employees Council No. 68, AFSCME, AFL-CIO, on behalf of the employees of the Building Maintenance Department, City of Manchester, New Hampshire, filed a petition for certification for a proposed unit to include mechanics, painters, working foremen, account clerk, plumbers and carpenters. Petition included individual signature cards from over thirty percent of the employees of the building maintenance department alleging that they wished to be represented in collective bargaining by AFSCME, as required under RSA 273-A:10.

The City of Manchester, New Hampshire, by its representative, Wilbur L. Jenkins, on December 23, 1977 filed exceptions to the proposed unit; specifically to the inclusion of working foremen (corrected to utility foremen) and account clerk. They contended the utility or working foremen were supervisory and should be excluded in accordance with RSA 273-A:8 as exercising supervisory authority involving the significant exercise of discretion over the other employees in the proposed unit; and, contended the account clerk lacked the community of interest in that she was a salaried employee and her functions were office and clerical in nature and greatly differed from that of the skilled craftsmen in the proposed unit.

At the unit determination hearing held March 16, 1978, in the Board's offices, the City elaborated on the reorganizational structure which was begun soon after Superintendent Houle took over the department, initially proposed in August of 1977 and currently being implemented: i.e., three positions in question being held by (1) a painter, now temporary Utility Foreman II, (2) a maintenance Mechanic II, now temporary Utility Foreman II, and (3) a maintenance Mechanic III, now temporary Utility Foreman III. It is the City's intention to eliminate the "temporary" when the reorganizational structure is finalized.

The City testified that the Account-Clerk keeps all confidential records and should the department employees be organized she, as the one and only office employee, would be involved in all the clerical work regarding the negotiations.

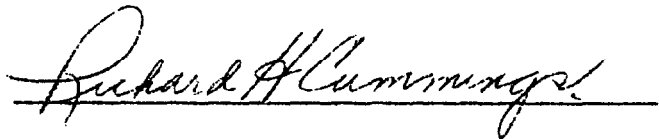
Representative from AFSCME and the building department agreed that the temporary foremen did in fact work directly with the men on the job and performed the same work and would continue to do so after the reorganization was completed.

FINDING OF FACTS

1. The temporary foremen work in conjunction with the other members of the proposed unit; perform the same work and do not have any significant supervisory duties over the other men in the teams.
2. The City agreed that after the restructure of the department, the foremen would continue as at present when the positions were finally made permanent, and they would still work along with the carpenters, plumbers, painters, mechanics, etc.
3. The Account Clerk does have access to all confidential material with the day to day operations of the department and would be involved in all clerical work and records dealing with collective bargaining.

BOARD DECISION AND ORDER

The bargaining unit for the Building Maintenance Department, City of Manchester, New Hampshire will consist of all employees in the department; but will exclude the positions of Superintendent and Account Clerk.



RICHARD H. CUMMINGS
ACTING CHAIRMAN

Signed this 11th day of April, 1978

By unanimous vote. Richard H. Cummings, Acting Chairman, Edward L. Allman and Joseph B. Moriarty voting. Board Clerk Evelyn C. LeBrun also present. Absent: Chairman Edward J. Haseltine and Board member James C. Anderson who took no part in the discussions or decision in this case.